

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

IN RE

AIR CARGO SHIPPING SERVICES
ANTITRUST LITIGATION

MDL No. 1775

Master File 06-MD-1775 (JG) (VVP)

THIS DOCUMENT RELATES TO:
All Actions

**PLAINTIFFS' NOTICE OF MOTION FOR SUMMARY JUDGMENT
ON THE ACT OF STATE DEFENSE**

PLEASE TAKE NOTICE THAT, upon the Declaration of Gary L. Specks in Support of Plaintiffs' Summary Judgment Motions, dated April 24, 2015 ("Specks Dec."), Plaintiffs' Local Civil Rule 56.1 Statement on Their Motion for Summary Judgment on the Act of State Defense, Plaintiffs' Memorandum in Support of Summary Judgment on the Act of State Defense, and all other papers and proceedings in this action, plaintiffs move this Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for entry of judgment in their favor on the act of state affirmative defense asserted by Polar Air Cargo LLC, Polar Air Cargo Worldwide Inc., Atlas Air Worldwide Holdings Inc. (collectively "Polar"), Air India Ltd. ("Air India").¹

Defendants Air New Zealand Ltd. ("Air New Zealand") and Air China Ltd. and Air China Cargo Co. Ltd. (together "Air China") have not asserted the affirmative defense that is the subject of this motion in their answers to plaintiffs' complaint² and have, accordingly, waived that defense. Should this Court find no waiver, plaintiffs request the Court to treat this motion as addressed to Air New Zealand and Air China as well.

¹ See ECF No. 1002 at 28 and Order of April 13, 2011 (Polar) (Specks Dec. Exhibits 1 and 2), and 1:10-cv-00639-JG-VVP, ECF No. 77 at 6-7 (Air India) (Specks Dec. Exhibit 3).

² See ECF No. 1001 (Air China) and ECF No. 1008 (Air New Zealand) (Specks Dec. Exhibits 4 and 5).

Dated: April 24, 2015

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